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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,433	02/11/2002	Christophe Brugidou	1721-41	4353

7590

12/03/2003

Nixon & Vanderhyc
1100 North Glebe Road 8th Floor
Arlington, VA 22201-4714

EXAMINER

BROWN, TIMOTHY M

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,433

Applicant(s)

BRUGIDOU ET AL.

Examiner

Tim Brown

Art Unit 1248

3825

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

2. Group I, claims 1-5, drawn to a method for isolating proteins involved in recognition and transport of a pathogenic plant virus.

Group II, claim 6, drawn to proteins involved in recognition and transport of a pathogenic plant virus.

Group III, claim 7 drawn to the application for cloning resistance genes using proteins involved in recognition and transport of a pathogenic plant virus.

Group IV, claims 8-14, drawn to cDNA encoding proteins involved in recognition and transport of a pathogenic botanical virus.

3. The special technical feature of Group I relates to isolating viral recognition and transport proteins using an anticapsid monoclonal antibody in a Western blot analysis.

Groups II and IV fail to incorporate the special technical feature of Group I. Groups II and IV are directed to proteins and nucleic acid sequences respectively. Thus, Groups II and IV fail to include a method step wherein viral recognition and transport proteins are isolated. Group III also fails to share Group I's special technical feature. Group III is directed to a method of applying viral recognition and transport proteins to cloning resistance to pathogenic viruses. Hence, Group III does not include a step wherein viral recognition and transport proteins are isolated.

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Group II can also be distinguished from Groups III and IV. Unlike the polypeptide of Group II, Group III is directed to a method of applying viral recognition and transport proteins to the cloning of genes resistant to pathogenicity. Group IV is also distinguished from the polypeptide of Group II in that Group IV is directed to a nucleotide sequence.

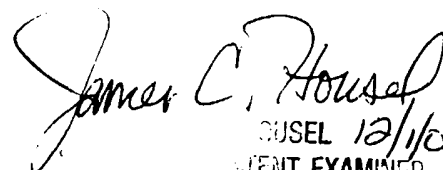
Finally, Group III can be distinguished from the cDNA of Group IV in that Group III is directed to a method and therefore fails to include a product comprising a cDNA sequence.

4. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Brown whose telephone number is (703) 305-1912. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on (703) 308-4027. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.


HOUSEL 12/1/03
PATENT EXAMINER
BIOLOGY CENTER 1600